

Application Number 10/579,214
Filing Date Monday, November 24, 2008
First Named Inventor Cliff Aaby
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REMARKS

The Applicant thanks the Examiner for examining this application. This is a response to the Office Action mailed on 18 Oct 2011.

Response to Remarks

The Specification describes obsolete data streamed on one channel and valid (non-obsolete) data on an alternate channel. See Specification, Paragraph 0040:

When the channel from which to retrieve the content index comprises an indication of invalid data (e.g. a predetermined bit pattern indicating invalid data in the channel), the set top box may tune to the alternate channel 329 for the content index. In this manner, the content index may be continually streamed via the channel 325, and when the data in the index becomes obsolete, the information of the channel 325 may be set to indicate invalid data. The set top box then tunes to the alternate channel for the content index.

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35 U.S.C. §112

Claims 1, 4, 8-10 and 12-16 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner asserts the term "logic" is indefinite for lack of corresponding structure. The Specification describes both a system and a set top box comprising logic (software and/or hardware) configured to carry out the claimed procedures, said procedures being described in detail in conjunction with the Drawings (e.g., Figures 7-9). This is sufficiently definite to enable one of skill in the art to understand both the scope of the invention, and how to make and use it. It is well understood in the art how to configure a device with logic to perform various actions such as formatting (composing), reading, displaying, communicating, delivering, applying, etc. data. These are not actions which require the recitation of a specific algorithm to be enabled to one of ordinary skill, and doing so would unnecessarily clutter the Description. It is well understood in the art which logic (controllers, volatile and nonvolatile memories, communication chips, ASICs, etc) could be utilized for the claimed purposes, and the mechanisms for configuring said logic for the claimed purposes are also well known (e.g., integrated development environments, logic burners, etc).

35 U.S.C. §103(a)

Claims 1-4, 6-10 and 12-14

Claims 1-4, 6-8, 10 and 12-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hendricks et al. (U.S. Patent 5,600,364, referred to as Hendricks) in view of Amano (U.S. Patent 5,822,528, referred to as Amano). Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Hendricks in view of Amano in further view of Ellis et al. (U.S. Patent 2004/0117831 A1, referred to as Ellis).

Hendricks describes a conventional set top box. Amano describes staggered program streams on alternate channels, not alternate channels of information about multiple audio and/or video streams (i.e., not alternate channels of program stream metadata). A program stream is not the same

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thing, nor useful for the same purposes, as a stream comprising metadata about multiple program streams. Hendricks in view of Amano does not obviously suggest alternate parallel streams of program metadata, one stream being obsolete metadata and the other valid metadata.

Claims 15-16

Claims 15-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hendricks in view of Terretta (U.S. PGPub 2001/0047275 A1, referred to as Terretta). Hendricks describes a conventional set top box. Terretta [0017] describes a content request from a set top to a web server. The user is prompted for a user name and password [0019]. There is no disclosure or suggestion of the set top applying audio and/or video title information and a service group identifier in a request communicated to the web server. The Examiner interprets content request to include an identifier of the title of the content and the membership to be part of a group of subscribers. This is not a reasonable or accurate definition of a service group identifier, which is an identifier of one or more Quad Amplitude Modulator (QAM) devices that service the set top box. Furthermore, it is nonsensical for user name described in Terretta to be extracted from a tuned channel streamed to the box.

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Reservation of Rights

The Applicant believes every assertion by the Office Action has been addressed, however in the interest of clarity and brevity, applicant may not have asserted every available argument for each assertion made in the Office Action. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. §1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP §2144.03. Applicant reserves all rights to pursue any canceled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP §821.04.

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Conclusion

In view of the above amendments and remarks, applicant believes that this application is now in condition for allowance. Applicant respectfully requests that a Notice of Allowability be issued covering the pending claims. If the Examiner believes that a telephone interview would in any way advance prosecution of the present application, please contact the undersigned.

Please charge any additional fees under 37 CFR §§ 1.16, 1.17, 1.18, 1.20 and 1.21 that may be required to maintain pendency of the present application, or apply any credits to our PTO deposit account number: 501691.

Signature	/Charles Mirho/	Date	1/18/2012
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